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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number:	10/682663
Filing Date:	09 October 2003
Appellant(s):	Clubb, Ian; Claridge, Philip; Shusta, Thomas; Miller, Jeffrey

Ria Farrell Schalnat
Reg. No. 47,058
For Appellant

EXAMINER'S ANSWER

This action is in response to the appeal brief filed 22 February 2010, appealing from the Office Action

mailed 25 June 2009.

(1) Real Party in Interest

- A statement identifying, by name, the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

- The Examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

- The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

- The Appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

- The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

- The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

- The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

- Allen et al., US Patent 7,280,645; issued 09 October 2007

- Black, US Patent 7,117,172; issued 03 October 2006

- Sarcanin, US Patent 6,941,285; issued 06 September 2005

(9) Grounds of Rejection

- The following ground(s) of rejection are applicable to the appealed claims:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 24-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Allen et al., US Patent No. 7,280,645 (hereinafter Allen)**, in view of, **Black, US Patent No. 7,117,172 (hereinafter Black)**, in further view of **Sarcanin, US Patent No. 6,941,285 (hereinafter Sarcanin)**.

As per claim 24

Allen teaches:

- A computer readable datastore associated with a server, said server hereinafter referred to as a wallet server, wherein a master copy of a wallet comprising computer readable storage representing a usage allowance, hereinafter master wallet, is stored (see at least C6/L10-59)

- A plurality of logical servers which are logical partitions of said wallet server (see at least C6/L10-59)

- A plurality of computer readable logical datastores which are logical partitions of said datastore wherein said wallet server further comprises computer executable instructions to: (see at least C6/L10-59)

    o   Create said master wallet for a set of users (see at least C6/L10-59)

    o   Configure each of said plurality of logical servers and their associated logical datastores for a subset of said set of users (see at least C6/L10-59)

    o   Configure each of said plurality of logical servers and their associated logical datastores for a subset of said set of users (see at least C6/L10-59)

- o Allocate a plurality of independent subsets of said master wallet, each of said subsets hereinafter referred to as a shadow wallet, wherein each shadow wallet is associated with one of said plurality of logical servers and its associated logical datastore (see at least C6/L10-59)

- o Configure each of said plurality of logical servers, to process a request received by said system for a given user from said subset of users against said shadow wallet associated with said given user (see at least C1/L51-61)

- o Monitor usage across all of the shadow wallets derived from said master wallet (see at least C6/L10-59)

Allen does not teach:

- Allocating a plurality of independent subsets of said master wallet, prior to an event arrival including a request

- Automatically adjusting the usage allowances subdivided across said shadow wallets in anticipation of expected future use of said shadow wallets

Black teaches:

- Automatically adjusting resources in a sub-account linked to a master account based on historical usage and current data regarding the usage of the accounts (see at least C44/L7-50, C50/L18-C51/L62)

Sarcanin teaches:

- Allocating a plurality of independent subsets of said master wallet, prior to an event arrival including a request (see at least C49/L53-C50/L30)

However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate the automatic account adjustments of Black and the initial subset account allocation of Sarcanin into the usage account system of Allen. One would have been motivated to do so in order to account for and track usage in sub-accounts of a master account (see at least Allen C1/L25-47). Furthermore, the Supreme Court has supported in, *KSR International Co. v. Teleflex Inc. (KSR), 550 U.S.,82 USPQ2d 1385 (2007),* that merely combining well known prior art elements in a well known manner to obtain predictable

results is sufficient to determine an invention obvious over such combination. In the instant case, Allen discloses the basic architectural framework to monitor usage via a master account and sub-accounts linked to the master account. Black and Sarcanin are merely relied upon to show the specific allocation features that could be utilized by such architecture. Since Allen, Black, and Sarcanin are all implemented through similar computer technologies (i.e. a master account with linked sub-accounts to monitor and control usage), combining their features using such well-known computer techniques would be reasonable, according to one of ordinary skill in the art. In addition, since the elements disclosed by Allen, Black, and Sarcanin would function in the same manner in combination as they do in their separate embodiments, it would be reasonable to conclude that their resulting combination would be predictable (i.e. a usage account system with initial and subsequent automatic allocation features). Accordingly, the claimed invention is obvious over Allen/Black/Sarcanin.

As per claim 25

Allen/Black/Sarcanin teaches the system of claim 24, as described above.

Allen further teaches:

- Wherein said wallet server further comprises computer executable instructions to configure said logical servers to notify said wallet server as the usage allowance allocated to a given shadow wallet is consumed (see at least C6/L40-49)

As per claim 26

Allen/Black/Sarcanin teaches the system of claim 25, as described above.

Allen further teaches:

- Wherein said wallet server further comprises computer executable instructions to create an additional shadow wallet (see at least C6/L50-59)

As per claim 27

Allen/Black/Sarcanin teaches the system of claim 26, as described above.

Allen further teaches:

- Wherein said wallet server further comprises computer executable instructions to reallocate said master wallet across said shadow wallets associated with said master wallet (see at least C6/L50-59)

As per claim 28

Allen/Black/Sarcanin teaches the system of claim 27, as described above.

Allen further teaches:

- Configure a given logical server to automatically request an additional usage allowance when a first shadow wallet reaches a predetermined minimum usage allowance (see at least C6/L50-59)
- Receive said request for additional usage allowance (see at least C6/L50-59)
- Allocate a subset of any unclaimed usage allowance from said master wallet to said first shadow wallet (see at least C1/L51-61, C6/L50-59)

As per claim 29

Allen/Black/Sarcanin teaches the system of claim 28, as described above.

Allen further teaches:

- Wherein said wallet server further comprises computer executable instructions to reclaim an unused portion of said usage allowance allocated to a second shadow wallet and reallocate said unused portion to said first shadow wallet (see at least C1/L51-61, C6/L60-64)

As per claim 30

Allen/Black/Sarcanin teaches the system of claim 29, as described above.

Allen further teaches:

- Wherein said automatic reallocation reduces the number of automatic requests made by a given logical server for additional usage allowance (see at least C1/L51-61)

As per claim 31

> *Allen/Black/Sarcanin teaches the system of claim 24, as described above.*

> *Allen further teaches:*

- Wherein said master wallet includes a set of conditions pertaining to the access of said master wallet that are passed onto any shadow wallets associated with said master wallet (see at least C1/L62-67)

As per claim 32

> *Allen/Black/Sarcanin teaches the system of claim 31, as described above.*

> *Allen further teaches:*

- Wherein said set of conditions are automatically determined by a product purchased by a user (see at least C3/L24-34)

As per claim 33

> *Allen/Black/Sarcanin teaches the system of claim 32, as described above.*

> *Allen further teaches:*

- Wherein said set of conditions includes a validity period (see at least C3/L24-34)

As per claim 34

> *Allen/Black/Sarcanin teaches the system of claim 24, as described above.*

> *Black further teaches:*

- Wherein said wallet server further comprises computer executable instructions to, upon the failure of any of said plurality of logical servers, their associated logical datastores or said shadow wallets, hereinafter a failed logical component, create a new logical component to replace said failed component (see at least C36/L23-29)

3.   Claims 35, 36, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Allen**. in

view of **Sarcanin**.

As per claim 35

   Allen teaches:

-   A computer readable datastore associated with a server, said server hereinafter referred to as a
    wallet server, wherein a master copy of a wallet comprising computer readable storage
    representing a usage allowance, hereinafter master wallet, is stored (see at least C6/L10-59)

-   A plurality of logical servers which are logical partitions of said wallet server (see at least C6/L10-
    59)

-   A plurality of computer readable logical datastores which are logical partitions of said datastore
    wherein said wallet server further comprises computer executable instructions to: (see at least
    C6/L10-59)

    o   Create said master wallet for a set of users (see at least C6/L10-59)

    o   Configure each of said plurality of logical servers and their associated logical datastores
        for a subset of said set of users (see at least C6/L10-59)

    o   Assign a service level to each of said logical servers (see at least C6/L10-59)

    o   Allocate a plurality of independent subsets of said master wallet, each of said subsets
        hereinafter referred to as a shadow wallet, wherein each shadow wallet is associated with
        one of said plurality of logical servers and its associated logical datastore (see at least
        C6/L10-59)

    o   Determine a service level associated with a request received by said system and distribute
        said request to a particular logical server associated with said service level and configure
        said particular logical server, to process a request received by said system for a first user
        from said subset of users against said shadow wallet associated with said first user (see at
        least C6/L10-59)

Allen does not teach:

- Allocating a plurality of independent subsets of said master wallet, prior to an event arrival including a request

Sarcanin teaches:

- Allocating a plurality of independent subsets of said master wallet, prior to an event arrival including a request (see at least C49/L53-C50/L30)

However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the initial subset account allocation of Sarcanin to the usage account system of Allen. One would have been motivated to do so in order to account for and track usage in sub-accounts of a master account (see at least Allen C1/L25-47). Furthermore, the Supreme Court has supported in, *KSR International Co. v. Teleflex Inc. (KSR), 550 U.S.,82 USPQ2d 1385 (2007),* that merely combining well known prior art elements in a well known manner to obtain predictable results is sufficient to determine an invention obvious over such combination. In the instant case, Allen discloses the basic architectural framework to monitor usage via a master account and sub-accounts linked to the master account. Sarcanin is merely relied upon to show a specific allocation feature that could be utilized by such architecture. Since Allen and Sarcanin are both implemented through similar computer technologies (i.e. a master account with linked sub-accounts to monitor and control usage), combining their features using such well-known computer techniques would be reasonable, according to one of ordinary skill in the art. In addition, since the elements disclosed by Allen and Sarcanin would function in the same manner in combination as they do in their separate embodiments, it would be reasonable to conclude that their resulting combination would be predictable (i.e. a usage account system with an initial allocation feature). Accordingly, the claimed invention is obvious over Allen/Sarcanin.

As per claim 36

Allen teaches:

- A computer readable datastore associated with a server, said server hereinafter referred to as a wallet server, wherein a master copy of a wallet comprising computer readable storage representing a usage allowance, hereinafter master wallet, is stored (see at least C6/L10-59)

- A plurality of logical servers which are logical partitions of said wallet server (see at least C6/L10-59)

- A plurality of computer readable logical datastores which are logical partitions of said datastore wherein said wallet server further comprises computer executable instructions to: (see at least C6/L10-59)

  o Create said master wallet for a set of users (see at least C6/L10-59)

  o Configure each of said plurality of logical servers and their associated logical datastores for a subset of said set of users (see at least C6/L10-59)

  o Subdivide said master wallet into a plurality of independent shadow wallets, wherein each shadow wallet is associated with one of said plurality of logical servers and its associated logical datastore (see at least C6/L10-59)

  o Process a plurality of requests against said master wallet by configuring each of said plurality of logical servers, to process a request received by said system for a given user from said subset of users against said shadow wallet associated with said given user (see at least C6/L10-59)

Allen does not teach:

- Allocating a plurality of independent subsets of said master wallet, prior to an event arrival including a request

Sarcanin teaches:

- Allocating a plurality of independent subsets of said master wallet, prior to an event arrival including a request (see at least C49/L53-C50/L30)

However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the initial subset account allocation of Sarcanin to the usage account system of Allen. One would have been motivated to do so in order to account for and track usage in sub-accounts of a master account (see at least Allen C1/L25-47). Furthermore, the Supreme Court has supported in, *KSR International Co. v. Teleflex Inc. (KSR), 550 U.S.,82 USPQ2d 1385 (2007)*, that merely combining well known prior art elements in a well known manner to obtain predictable results is sufficient to determine an invention obvious over such combination. In the instant case, Allen discloses the basic architectural framework to monitor usage via a master account and sub-accounts linked to the master account. Sarcanin is merely relied upon to show a specific allocation feature that could be utilized by such architecture. Since Allen and Sarcanin are both implemented through similar computer technologies (i.e. a master account with linked sub-accounts to monitor and control usage), combining their features using such well-known computer techniques would be reasonable, according to one of ordinary skill in the art. In addition, since the elements disclosed by Allen and Sarcanin would function in the same manner in combination as they do in their separate embodiments, it would be reasonable to conclude that their resulting combination would be predictable (i.e. a usage account system with an initial allocation feature). Accordingly, the claimed invention is obvious over Allen/Sarcanin.

As per claim 41

Allen/Sarcanin teaches the system of claim 36, as described above.

Allen further teaches:

- Wherein said wallet server further comprises computer executable instructions to configure said plurality of logical servers to process a query in isolation from said wallet server (see at least C1/L51-61)

4.   Claims 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Allen/Sarcanin**, in further view of **OFFICIAL NOTICE**.

As per claim 37

Allen/Sarcanin teaches the system of claim 36, as described above.

Allen/Sarcanin do not explicitly teach:

-      Setting a flag to indicate a state relating to said master wallet

The Examiner has previously taken OFFCIAL NOTICE that status flags in a computer system are well known in a variety of workflow applications. The Applicant has not attempted to challenge such assertion, rendering such assertion prior art, henceforth.

As per claim 38

Allen/Sarcanin/OFFICIAL NOTICE teaches the system of claim 37, as described above.

Allen/Sarcanin do not explicitly teach:

-      Setting a flag to indicate that an additional usage allowance is not available from said master wallet

The Examiner has previously taken OFFCIAL NOTICE that status flags in a computer system are well known in a variety of workflow applications. The Applicant has not attempted to challenge such assertion, rendering such assertion prior art, henceforth.

As per claim 39

Allen/Sarcanin/OFFICIAL NOTICE teaches the system of claim 38, as described above.

Allen/Sarcanin do not explicitly teach:

-      Wherein said wallet server further comprises computer executable instructions to set a corresponding flag on each of said shadow wallets derived from said master wallet to inform said

associated logical servers that the master wallet is exhausted in order to limit repeated requests by

said associated logical servers for additional usage allowance

The Examiner has previously taken OFFCIAL NOTICE that status flags in a computer system are well

known in a variety of workflow applications. The Applicant has not attempted to challenge such assertion,

rendering such assertion prior art, henceforth.

As per claim 40

Allen/Sarcanin/OFFICIAL NOTICE teaches the system of claim 37, as described above.

Allen further teaches:

- Replenishing a usage account by a user associated with a product purchased by the user (see at

  least C5/L28-40)

Sarcanin further teaches:

- Automatic periodic usage allowance replenishment (see at least C49/L53-C50/L30)

(10) Response to Argument

-   The Examiner summarizes the various points raised by the Appellant and addresses them individually.

ISSUE A: Standard for Prima Facie Case of Obviousness

As an initial matter, the Appellant provides a limited discussion on the basis of forming a prima facie case of obviousness without application to the claimed subject matter on appeal (Appeal Brief, pp 15).

In Response: The Examiner asserts that he is fully aware of his burden to establish a prima facie case of obviousness and assures the Appellant and the Board that he has done so to the best of his ability in the current application under appeal.

ISSUE B: High-Level Description of Cited Art

As another initial matter, the Appellant provides a brief and limited discussion of the Appellant's interpretation of the prior art (Appeal Brief, pp 15).

In Response: While not pertinent to the arguments set forth by the Appellant for matters of appeal, the Examiner notes that the Appellant is mistaken in that, "The Examiner based the current Final Rejection on both Allen and Sarcanin". In fact, the current Final Rejection is based on the combination of Allen, **Black**, and Sarcanin. While the specific features of Black relied upon by the Examiner are not argued by the Appellant, it is important to note that the claimed invention, as a whole, is rejected based on the proper combination of Allen, Black, and Sarcanin.

ISSUE C: Group I – Argument Regarding the Flaw of Examiner's Rejection in Claim 24.

1. The Appellant argues that the cited art does not disclose the allocation of independent subsets (Appeal Brief, pp 15-16).

2. The Appellant argues that the Examiner ignored the architecture of the independent subsets which allows the independent allocation and monitoring of the shadow wallets (Appeal Brief, pp 16).

3. The Appellant argues that the Examiner is improperly applying Sarcanin because he is ignoring parts of the claim (Appeal Brief, pp 16-18).

In Response to #1: The Examiner, as an initial matter, would like to point out that the Appellant

had the opportunity to present this argument in the response to the Non-Final Office Action dated 11

December 2008 in order to identify any perceived differences in the prior art and further prosecution, but

neglected to do so. Nevertheless, the Examiner respectfully disagrees with the Appellant. The Appellant's

assertion that, "the Office conceded that the 'allocating a plurality of independent subsets of said master

wallet' is absent from Allen", is false and clearly an attempt to mischaracterize the rejection of record. A

true reading of the rejection shows that Allen, indeed, discloses the allocation of a plurality of independent

subsets of said master wallet in at least C6/L10-59 as explicitly noted in the rejection. What Allen does not

show is such a limitation being performed "prior to an event arrival including a request..." as claimed, for

which the Examiner relies on Sarcanin for disclosure. In addition, the Appellant alleges that such

allocation is "absent from Sarcanin, the only other reference cited in the rejection of claim 24". As noted

above, Allen, Sarcanin, **AND** Black are cited against claim 24. However, Sarcanin, as best interpreted by

the Examiner does indeed disclose a partitioned master account with 3 sub-accounts (i.e. shadow wallets).

These sub-accounts function independently as shown by the updated purchase and balance information, and

acknowledged by the Appellant as the primary feature of such architecture. For at least these reasons, the

rejections, under 35 USC 103, over Allen/Black/Sarcanin, of claims 24-28 and 31-41, stand and should be

affirmed.

In Response to #2: The Examiner again, as an initial matter, would like to point out that the

Appellant had the opportunity to present this argument in the response to the Non-Final Office Action

dated 11 December 2008 in order to identify any perceived differences in the prior art and further

prosecution, but neglected to do so. Nevertheless, the Examiner respectfully disagrees with the Appellant's

general allegation that, "the Office simply ignored the limitation 'each shadow wallet is associated with one

of said plurality of logical servers and its associated datastore'". The Examiner clearly articulated, not

ignored, this limitation in the previous Office Action on pp 5, lines 1-3. As conceded by the Appellant, this

"architectural feature enables the independent functioning of the shadow wallets". The portion of Allen

cited by the Examiner as well as C1/L51-67, explicitly details such functionality, by allowing the individual

control and monitoring functions of the sub-account users (i.e. shadow wallets) of the master account.

Moreover, it appears the Appellant is improperly narrowing the scope of the claim by insinuating that each

shadow wallet is associated with a different logical server and datastore. However, as claimed, "each shadow wallet is associated with one of said plurality of logical servers and its associated datastore..." indicating that each shadow wallet may be associated with any of the logical servers and associated datastores, including the same one as another shadow wallet. For at least these reasons, the rejections, under 35 USC 103, over Allen/Black/Sarcanin, of claims 24-28 and 31-41, stand and should be affirmed.

      In Response to #3: The Examiner respectfully disagrees with the Appellant. As is clearly articulated in the previous Office Action, Sarcanin is not relied upon to teach the architectural arrangement allegedly ignored by the Examiner. Sarcanin is merely relied upon to show the allocation of a usage allowance to a sub-account of a master account, similar to Allen, which is executed before an event including a request. However, assuming *arguendo,* that Sarcanin was indeed relied on to disclose such architectural arrangement, the Examiner points to the example in column 50. Here, Sarcanin discloses a partitioned master account with 3 sub-accounts (i.e. shadow wallets). These sub-accounts function independently as shown by the updated purchase and balance information, and acknowledged by the Appellant as the primary feature of such architecture. In addition, the Appellant cites Figure 3 of the instant application for support of the perceived differences of the prior art. Again, as noted above, it appears the Appellant is improperly narrowing the scope of the claim by insinuating that each shadow wallet is associated with a different logical server and datastore, as shown by Figure 3. However, as claimed, "each shadow wallet is associated with one of said plurality of logical servers and its associated datastore..." indicating that each shadow wallet may (emphasis added) be associated with any of the logical servers and associated datastores, including the same one as another shadow wallet. For at least these reasons, the rejections, under 35 USC 103, over Allen/Black/Sarcanin, of claims 24-28 and 31-41, stand and should be affirmed.

ISSUE D: Group II – Argument Regarding the Flaw of Examiner's Rejection in Claim 29

      Regarding claim 29, the Appellant argues that the combination of Allen/Black/Sarcanin is improper and specifically that Allen does not disclose the reclaiming of an unused portion of a usage allowance and reallocating the unused portion to another shadow wallet (Appeal Brief pp 19-20).

      In Response: The Examiner again, as an initial matter, would like to point out that the Appellant had the opportunity to present this argument in the response to the Non-Final Office Action dated 11 December 2008 in order to identify any perceived differences in the prior art and further prosecution, but neglected to do so. Nevertheless, the Examiner respectfully disagrees with the Appellant. The cited portion of Allen (C6/L60-64, C1/L51-67) discloses that the system individually monitors each call from the sub-accounts (i.e. shadow wallets) to ensure that any remaining (i.e. unused) minutes from a particular sub-account are reclaimed to the master account for reallocation to another sub-account. In addition Allen discloses that any of the sub-accounts can recharge (i.e. add more minutes) to the master account. For at least these reasons, the rejections, under 35 USC 103, over Allen/Black/Sarcanin, of claim 29, stands and should be affirmed.

(11) Related Proceeding(s) Appendix

-   No decision rendered by a court or the Board is identified by the Examiner in the Related Appeals and Interferences section of this Examiner's Answer.

Respectfully submitted,

/THOMAS M HAMMOND III/

Examiner, Art Unit 3695

Conferees:

/Charles R. Kyle/
Supervisory Patent Examiner, Art Unit 3695